



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 26 अगस्त, 1975/4 भाद्रपद, 1897

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 26th August, 1975

No. LLR-D(6)5/74.—The Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1975 (Ordinance No. 2 of 1975) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 25th August, 1975, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

Ordinance No. 2 of 1975.

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS (AMENDMENT) ORDINANCE, 1975

Promulgated by the Governor of Himachal Pradesh in the Twenty-sixth Year of the Republic of India.

An Ordinance to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).

Whereas the Legislative Assembly of Himachal Pradesh is not in session and the Governor of Himachal Pradesh is satisfied that the circumstances exist which render it necessary for him to take immediate action;

And whereas instructions of the President of India to promulgate the Ordinance have been obtained;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make and promulgate the following Ordinance:—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1975.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall be deemed to have come into force from the date of commencement of the Himachal Pradesh Tenancy and Land Reforms Act, 1972. 8 of 1974.

Amend-
ment of
section 2.

2. In section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (hereinafter referred to as the Principal Act), the following amendments shall be carried out, namely:—

(a) after clause (3), the following new clause “(3-A)” shall be inserted, namely:—

“(3-A)” ‘Bank’ has the same meaning as assigned to it in the Himachal Pradesh Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1972. 7 of 1972.

(b) *Explanation*—1 occurring below clause (4) (iv) shall be deleted and the figure “II” assigned to explanation II shall be deleted;

(c) in clause (17).—

(i) in sub-clause (i), the words “recorded as such in the revenue record” shall be deleted;

(ii) in para (a) of sub-clause (ii) the word “mere” shall be inserted before the word “mortgagee”;

(iii) in para (b) of sub-clause (ii) for “comma” and the word “Or”—Occurring at the end, a “semi-colon” shall be substituted; and

(iv) Para (c) of sub-clause (ii) shall be deleted.

3. Section 12 of the principal Act shall be deleted. Deletion of section 12.
4. After sub-section (2) of section 20 of the principal Act, the following sub-section (3) shall be added, namely:— Amendment of section 20.

“(3) It shall be an offence for a landowner to collect rent more than the maximum rent prescribed under sub-section (1) and he shall, on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupee or with both”.
5. In section 24 of the principal Act:— Amendment of section 24.

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) It shall be an offence for a landowner to collect from a tenant any rent of which payment has been remitted or is under suspension, and he shall on conviction by a magistrate, be liable to imprisonment which may extend to six months or punishable with fine which may extend to one thousand rupees or with both”;

(b) sub-section (7) shall be omitted.
6. In sub-section (2) of section 25 of the principal Act for the words “one hundred rupees”, the words “from rupees five hundred to rupees two thousand” shall be substituted. Amendment of section 25.
7. Sub-section (5) of section 30 of the principal Act shall be deleted. Amendment of section 30.
8. For section 31 of the principal Act, the following section shall be substituted, namely:— Amendment of section 31.

“31. Relinquishment—No relinquishment of a tenancy shall be made by a tenant in favour of landowner. However, if a tenant wants to made a voluntary surrender of his tenancy land, the same shall be in favour of the State Government. The State Government shall have right to induct any suitable tenant or landless agricultural labourer to the relinquished land in the manner to be prescribed”.
9. Sections 32 and 33 of the principal Act, shall be deleted. Deletion of sections 32 and 33.
10. For clause (d) of sub-section (1) of section 34 of the principal Act, the following clauses (d) and (dd) shall be substituted, namely:— Amendment of section 34.

“(d) that he holds his tenancy, from a person who created such tenancy within a period of six months before he became a member of the Armed Forces or while he was serving in the Armed Forces and wants to cultivate it himself on his ceasing to be a member of the Armed Forces ;

(dd) that he holds his tenancy on the land comprising the share of a member of the Armed Forces covered by clause (d) of sub-section (8) of section 104 and who wants to cultivate it himself on his ceasing to be a member of the Armed Forces ;

Provided that such person or member of Armed Forces referred to in clauses (d) and (dd) above, as the case may be, shall be entitled to eject a tenant from such land upto a maximum of five acres in the prescribed manner :

Provided further that a tenant so ejected shall be restored to possession of the land if the landowner after ejecting him does not within one year cultivate it personally :

Provided also that if a tenant holding land from persons mentioned in clauses (d) and (dd) of this sub-section is also a member of the Armed Forces, the provision of first proviso shall not apply and the tenancy shall remain and the ejectment from tenancy shall only be on the grounds given in clauses (a) to (c) of this sub-section."

Amendment of section 57. 11. Clause (k) of sub-section (1) of section 57 of the principal Act, shall be deleted.

Amendment of section 58. 12. Clause (i) in Third Group of sub-section (3) of section 58 of the principal Act, shall be deleted.

Amendment of section 89. 13. In sub-section (2) of section 89 of the principal Act, for the figure "74" occurring after the word "and" the figures "73" shall be substituted.

Amendment of section 95. 14. At the end of section 95 of the principal Act, for the sign "," the sign ":@" shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that if the land is subject to a mortgage with a bank the mortgage debt shall be the first charge on the amount payable by the occupancy tenant."

Amendment of section 99. 15. In the end of sub-section (1) of section 99 of the principal Act, for the sign ":@" the sign ":@" and the word "and" shall be substituted and thereafter the following words shall be added :—

"the Composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954".

65 of 1951.

44 of 1954.

Substitution of section 104. 16. For section 104 of the principal Act, the following Section be substituted, namely :—

"104. Right of tenant other than occupancy tenant to acquire interest of landowner :— (1) Notwithstanding anything to the contrary contained in any law, contract, custom or usage for the time being in force, on and from the commencement of this Act, if the whole of the land of the landowner is under non-occupancy tenants, and if such a landowner has not exercised the

right of resumption of tenancy land at any time since January 26, 1955, under any law as in force :—

- (i) Such a landowner shall be entitled to resume before the date to be notified by the State Government in the official gazette and in the manner prescribed, either one and a half acres of irrigated land or three acres of un-irrigated land under tenancy from one or more than one tenants for his personal cultivation and the right, title and interest (including contingent interest, if any) of the tenant or tenants, as the case may be, therefrom shall stand extinguished free from all encumbrances created by the tenant or tenants to that extent :

Provided that if the tenant has taken loan from the State Government, a co-operative society or a bank for the improvement of tenancy land which the landowner has resumed under clause (i) or clause (ii) and has used such loan for the improvement of such land, then the landowner shall be liable to repay the outstanding amount of such loan and to the extent actually used for the said purpose and interest thereon to the State Government or to the Co-operative Society or a bank, as the case may be, proportionate to the improved land resumed by him :

Provided further that the landowner shall not be entitled to resume from a tenant more than one half of the tenancy land ;

- (ii) in case the landowner holds less than one and a half acres of irrigated land or three acres of un-irrigated land in his personal cultivation, he shall be entitled to resume tenancy land only to make up the land under his personal cultivation to the extent of one and a half acres of irrigated land or three acres of un-irrigated land, as the case may be, subject to the other conditions laid down in this section ;
- (iii) the right, title and interest in the rest of the tenancy land of the landowner, who is entitled to resume land under clauses (i) and (ii), shall vest in the tenant free from all encumbrances with effect from the date to be notified by the State Government in the Official Gazette ;
- (iv) in case the land under the tenancy is partly irrigated and partly un-irrigated and the landowner intends to resume land of both these classes, he shall be entitled to do so in the ratio and manner to be prescribed ;
- (v) in the event of any dispute between the landowner and the tenant with regard to the selection of the land for resumption, the first right of selection of land shall be that of the tenant who may exercise this right in the prescribed manner and before the date to be notified by the State Government in this respect in the official gazette ;
- (vi) in case the tenant fails to exercise his right of selection of land by the date notified under clause (v), the Land Reforms Officer shall determine his share after giving the parties an opportunity

of being heard. In such a case also, the tenant shall be given the first choice to select the land.

- (2) Where the landowner does not cultivate the land resumed under sub-section (1) personally, within one year from taking possession thereof, then such land shall vest in the State Government on payment of an amount at the rate of ninety-six times the land revenue plus rates and cesses and such land shall be disposed of by the State Government in such manner as may be prescribed. In such an event the first right to get such land shall be that of the tenant from whom the land was resumed by the landowner.
- (3) All rights, title and interest (including a contingent interest, if any) of a landowner other than a landowner entitled to resume land under sub-section (1), shall be extinguished and all such rights, title and interest shall with effect from the date to be notified by the State Government in the official gazette vest in the tenant free from all encumbrances:

Provided that if a tenancy is created after the commencement of this Act, the provision of this sub-section shall apply immediately after the creation of such tenancy.

- (4) Whenever a dispute arises whether a person cultivating the land of a landowner, is a tenant or not, the burden of proving that such a person is not a tenant of the landowner shall be on the latter.
- (5) The landowner whose rights, title and interest are extinguished under this section, shall be entitled to receive an amount at the rate of ninety-six times the land revenue plus rates and cesses payable either in lump sum or in such number of instalments not exceeding ten during a period not exceeding five years as may be prescribed:

Provided if the tenant makes a default in the payment of any instalment of the amount the same shall be recoverable as an arrear of land revenue :

Provided further that if the land for which the amount is to be paid under this section is subject to a mortgage debt from a bank, the mortgage debt will be the first charge on the amount payable for such land:

Provided also that the tenant shall not be liable to pay the amount to the landowner for the acquisition of ownership rights in the tenancy land which is equal in area to that of his tenancy land resumed by the landowner under clauses (i) and (ii) and the extinguishment of rights, title and interest of the tenant in the land resumed by the landowner shall be deemed to be the amount therefor.

- (6) Save as otherwise provided in section 114, every decision of the Land Reforms Officer, under this section shall be binding on all persons claiming an interest in a holding notwithstanding the fact that any such person has not appeared or participated in the

proceedings before the Land Reforms Officer or any other revenue authority.

(7) The provisions of the foregoing sub-section shall apply to evacuee Land as defined in the Administration of Evacuee Property Act, 1950, to composite property as defined in the Evacuee Interest (Separation) Act, 1951, or the property vested in the Central Government under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, with effect from such date as the State Government by notification, in the official gazette, specify.

(8) Save as otherwise provided in sub-section (9), nothing contained in sub-sections (1) to (6) shall apply to a tenancy of a landowner during the period mentioned for each category of such landowners in sub-section 9 who:—

- (a) is a minor or unmarried woman, or if married, divorced or separated from husband or widow; or
- (b) is permanently incapable of cultivating land by reason of any physical or mental infirmity; or
- (c) is a serving member of the Armed Forces; or
- (d) is the father of the person who is serving in the Armed Forces, upto the extent of inheritable share of such a member of the Armed Forces on the date of his joining the Armed Forces, to be declared by his father in the prescribed manner.

(9) In the case of landowners mentioned in clause (a) to (d) of sub-section (8), the provisions of sub-sections (1) to (6) shall not apply,—

- (a) in case of a minor during his minority and in case of other persons mentioned in clauses (a) and (b) of sub-section (8) during their life time;
- (b) in case of persons mentioned in clauses (c) and (d) of sub-section (8), during the period of their service in the Armed Forces subject to resumption of land by such persons to the extent mentioned in first proviso to clauses (d) and (dd) of sub-section (1) of section 34”.

17. In section 105 of the principal Act.—

- (a) for the word “Compensation” or for the words “amount of compensation” wherever they occur, the word “amount” shall be substituted;
- (b) for the sign “.” occurring at the end, the sign “:” shall be substituted and thereafter the following proviso shall be inserted, namely :—

“Provided that the amount so determined shall not exceed 50 % of the market price of such building and structure”.

Amendment
of section
105.

65 of 1951.

44 of 1954.

Amendment
of section
106.

18. (1) The existing section 106 of the principal Act shall be renumbered as sub-section (1) and for the words "amount of compensation" or for the word "compensation" wherever they occur therein, the word "amount" shall be substituted and thereafter the following sub-section (2) shall be added, namely :—

"(2) If the amount payable relates to the land mortgaged with a Bank, or other lending institution or agency, then the priority of claiming such amount against mortgage money shall be that of the Bank, lending institution or agency, as the case may be."

Amendment
of section
107, 109,
110 and 111.

19. In sections 107, 109, 110 and 111 of the principal Act, for the word "compensation" or for the words "amount of compensation" wherever they occur therein, the word "amount" shall be substituted.

Amendment
of section
113.

20. In second proviso of section 113 of the principal Act, for the words, brackets and figures "Land Mortgage Bank or with new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970" the words "Bank" shall be substituted.

Amendment
of section
118.

21. In section 118 of the principal Act :—

(a) in clause (f) of sub-section (2) for the words, bracket and figures "new Banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970" the words "a bank" shall be substituted;

(b) after clause (f) the following clauses shall be added, namely :—

"(g) a non-agriculturist within the limits of municipal corporations, municipal committees, notified area committees for any one of the purposes i.e., for construction of a dwelling house, a shop or commercial establishment or office or industrial unit subject to the condition that transfer of land for such purposes shall not exceed :—

(i) in case of a dwelling house—500 square meters;

(ii) in case of a shop, commercial establishment or office—300 square meters;

(iii) in case of an industrial unit such area as may be certified by the Department of Industries of the State Government;

(h) a non-agriculturist with the permission of the State Government for the purposes to be prescribed."

Amendment
of section
119.

22. In sub-section (4) of section 119 of the principal Act, for the sign ":", the sign "—" shall be substituted and thereafter the following proviso shall be added namely :—

"Provided that the vestment of land in the State Government shall not affect the rights of a tenant in such land".

Amendment
of section
121.

23. In section 121 of the principal Act, for the existing clause (a), the following clause shall be substituted, namely :—

"(a) landless agricultural labourers and co-operative farms of such labourers;"

SIMLA :

Dated the 25th day of August, 1975.

S. CHAKRAVARTI,
Governor
of Himachal Pradesh.

T. R. HANDA,
Secretary (Law).